

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

TIMOTHY BERNARD EDWARD,)
Plaintiff,)
v.) CIVIL ACTION NO.: 2:06-CV-298-MHT
ANTHONY CLARK, *et al.*,)
Defendants.)

ANSWER

COMES NOW Anthony Clark, Sheriff of Covington County, a defendant in this action (hereafter, "Defendant"), and responds to the Complaint filed by Plaintiff in the above-styled cause and states as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his constitutional rights were violated by Defendant. More specifically, as a pre-trial inmate, the Plaintiff alleges that his Constitutional rights have been violated in that the Defendants failed to provide medical care.
2. Defendant admits that the Plaintiff was incarcerated on or before March 22, 2005, at the Covington County Jail.
3. Defendant denies the remaining allegations and inferences in the Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint separately and severally fails to state a claim upon which relief can be granted. Defendant did not deprive Plaintiff of any constitutional right to which he is entitled.
2. Any claims against this Defendant in his official capacity are barred by the Eleventh Amendment and because this Defendant is not a "person" under 42 U.S.C. § 1983.
3. This Defendant is entitled to qualified immunity in his individual capacity.
4. The Plaintiff's claims are barred due to the Plaintiff's failure to exhaust all available state remedies.
5. Defendant reserves the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this Court to enter judgment in his favor and grant unto him costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted this 31st day of May, 2006.

s/Scott W. Gosnell
Scott W. Gosnell, Bar Number: GOS002
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CERTIFICATE OF SERVICE

I hereby certify that on this the 31st day of May, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served the following by U.S. Mail:

Timothy Bernard Edward
Covington County Jail
290 Hillcrest Drive
Andalusia, Alabama 36420

s/Scott W. Gosnell
OF COUNSEL